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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,947	02/14/2001	X. Shawn Yu	Haworth Case 313	2331
7590	11/02/2004		EXAMINER	
FLYNN, THIEL, BOUTELL & TANIS, P.C. 2026 Rambling Road Kalamazoo, MI 49008-1699			A, PHI DIEU TRAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/782,947	YU ET AL. <i>MW</i>	
Examiner	Art Unit	Phi D A	3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 August 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,6-14,18-20,22-32,35,36 and 39-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-3,6-14,18-20,27-32,35,36,39-43 and 45-48 is/are allowed.
- 6) Claim(s) 22,23,26 and 44 is/are rejected.
- 7) Claim(s) 24-25 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 26, 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 26, the limitation of “ a plurality of discrete clamps each...members...one another” is confusing. It is unclear if applicant is trying to claim the same “clamps” as added in the amended claim 22, or the “clamps” in this claim being some other structure. The claim is thus indefinite.

Claim 44 line 9 “ from a center of the lower portion” is confusing. Should it be “from an edge of the lower portion” instead? The claim is thus indefinite.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 22-23, 26, 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Mollenkopf et al (4391073).

Mollenkopf et al (figure 5) shows an upright space-dividing wall panel assembly comprising a pair of horizontally space elongate and generally vertically oriented supports (32,

29, 23) and an elongate and generally horizontally oriented rail member (15) extending between the supports, a pair of generally vertically oriented and planar side surfaces (46) on respective oppositely facing sides of the panel assembly, an elongate and rigid one-piece top cap (70) which is generally horizontally oriented (the orientations are as pointed out above as the claims are to an assembly only, not in relation to the ground or any other structure) and positioned above and extending along a substantial portion of the rail member (15), a mounting structure (65, 61) clampingly engaging opposite sides of both the top cap and the rail member to fixedly secure the top cap thereto, the mounting structure being defined by a pair of opposed and generally C-shaped clamps (the parts 65 and 61) which overlie opposite sides of the rail member (does not require the parts each to be on opposite sides of the rail member), the top cap having an uppermost wall defining therein an elongated and continuous groove (where part 71 is located at) which opens upwardly through the upper wall, the groove transferring at least a portion of an external downward load associated with the furniture component from the top cap to the rail member (inherently capable of being adapted to do so with the mounting element), one of the top cap and the mounting structure defines a recess therein and the other of the top cap and the mounting structure defining a flange thereon which projects into the recess to secure the top cap to the mounting structure, the groove being generally centrally located between two parallel and longitudinally extending edges of the uppermost wall, the groove having a transverse cross section defined by a lower horizontally oriented portion (portion in the middle forming the base of the groove), an upper vertically oriented portion (the vertically walls with the inwardly pointing prongs) which defines a mouth of the groove and which has a transverse width substantially less than a transverse width of the lower portion (per the prongs), the upper portion

projecting upwardly from a center/edge of the lower portion in generally perpendicular relation therewith to provide a groove with an inverted T-shaped cross section, the mounting structure including a plurality of discrete clamps (65, 61) each defined by two detachable, separate clamp members disposed in opposed relation with one another, the clamps being separate components from the top cap and being spaced longitudinally from one another along the rail member.

Response to Arguments

3. Applicant's arguments filed 7/29/04 to claims 22-23 have been fully considered but they are not persuasive.

With respect to applicant's statements that Mollenkopf does not show the parts having orientations as claimed, examiner respectfully disagrees. As pointed out in the office action above, the parts have the orientations as claimed above. With respect to horizontal and vertical orientations, examiner respectfully points out that the claims are to the assembly only and thus the limitations are interpreted accordingly.

4. Applicant's arguments filed 7/29/04 with respect to claims 26, 44 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

Claims 1-3, 6-14, 18-20, 27-32, 35-36, 39-43, 45-48 are allowed.

Claims 24-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Per claim 1, prior art does not show the mounting member having clamps defining respective channels, which open inwardly and toward one another and in which the first and second flanges of the top cap are engaged in combination with other claimed limitations.

Per claim 10, Mollenkopf et al and Charman does not show the mounting member engaging a lower surface of the upper frame member in combination with other claimed limitations; and prior art does not provide sufficient motivations to modify either Mollenkopf et al or Charman to show the mounting member engaging a lower surface of the upper frame member in combination with other claimed limitations.

Per claim 24, Mollenkopf et al does not show the C-shaped clamps having respective upper portions which interlock with a lower portion of the top cap in combination with other claimed limitations.

Per claims 27, 32, prior art does not show the bracket/clamping member being a pair of clamps which are detachable from one another and disposed in opposed relation with one another on opposite sides of the upper support or upper cross member in combination with other claimed limitations.

Per claim 36, prior art does not show each clamp being defined by a pair of opposed and discrete brackets which are adjustably fastened to one another and sandwich therebetween both the cross rail and a lower portion of the top cap, the top cap having a width dimension which is greater than a width of the frame such that the top cap spans a width of the panel assembly as defined between the opposed side covers in combination with other claimed limitations.

Per claim 45, prior art does not show the pair of opposed clamps engaging a lower portion of the top cap and clampingly engaging the cross member from oppositely facing sides thereof, an elongated fastener extending through the clamps and being adjustable to move the clamps to fix and release the top cap in combination with other claimed limitations.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

Art Unit: 3637

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phi Dieu Tran A *PA*

10/29/04